IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 105 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JIVATIBEN NARAN DEVAYAT AYAR

Versus

SHIRAJBHAI KULUBHAI VAGHELA (MOHESALAM)

Appearance:

1. Misc.Civil Application No. 105 of 2001

MR SHAKEEL A QURESHI for Petitioner No. 1-3

DELETED for Respondent No. 1

RULE NOT RECD BACK for Respondent No. 2

RULE SERVED BY DS for Respondent No. 3-4

CORAM : HON'BLE MR.JUSTICE K.M.MEHTA

Date of decision: 18/10/2004

ORAL JUDGEMENT

1. Smt.Jivatiben Naram Devayat Ayar and others,

applicants - original claimants have filed this application with a prayer that this Court may please to transfer the Motor Accident Claims Petition No.1206 of 1992 from Motor Accident Claims Tribunal, Ahmedabad (Rural) to Motor Accident Claims Tribunal, Kachchh at Bhuj. This application was filed on 4th January, 2001.

2. When the aforesaid application was filed, the office endorsement shows that the respondent No.1 has been deleted, respondent No.2 is not served, respondent No.3 - transport operator is served and respondent No.4 insurance company is served.

3. In view of the fact that the Motor Accident Claim Petition is of 1992, I take this matter for final disposal today with consent of parties.

4. The facts of the case are as under:-

4.1 The applicants have filed Motor Accident Claims Petition No.1206 of 1992 in the Motor Accident Claims Tribunal, Ahmedabad (Rural) against the opponents to recover compensation for the death of the deceased Shri Naran Devayat Ayar who expired on 8th March, 1992. Thereafter the applicants have filed application for compensation before the tribunal somewhere in 1992.

4.2 It is also the case of the applicants that on 14th November, 1994, the Motor Vehicles Act, 1988 came to be amended, and by way of such amendment, it was left open for the claimant to choose the tribunal. It is submitted that as the accident has occurred prior to the amendment, the claim petition is instituted before the Motor Accident Claims Tribunal, Ahmedabad (Rural). However, in view of the changed circumstances, the applicants are entitled to get their Motor Accident Claims Petition transferred to the Motor Accident Claims Tribunal, Kachchh at Bhuj, as the applicants are residing at village Lodai, Kachchh-Bhuj.

5. In view of the amendment in Sec.166 of the Motor Vehicles Act, 1988, this Court has already taken a view that the applicants can be heard at the place which the applicants resides. This Court has already issued notice of rule but nobody appears on behalf of the respondents. In view of the amendment in Sec.166 of the Motor Vehicles Act, I allow this application directing that the Motor Accident Claims Petition No.1206 of 1992 be transferred from Motor Accident Claims Tribunal, Ahmedabad (Rural) to Motor Accident Claims Tribunal, Kachchh at Bhuj. The learned Judge, MACT Kachchh at Bhuj, is requested to hear

and decide the matter as early as possible, as the matter is of 1992. Rule is made absolute with no order as to costs. D.S. permitted.

(K.M. Mehta, J.)

syed/